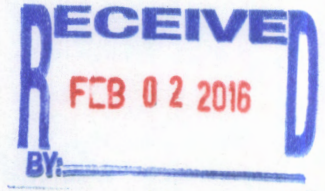




1600 20th Street, NW • Washington, D.C. 20009 • 202/588-1000 • [www.citizen.org](http://www.citizen.org)

January 15, 2016



VIA FIRST CLASS MAIL

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

**RE: Freedom of Information Act Request**

Dear Sir or Madam:

On behalf of Public Citizen, Inc. and pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I request all records that constitute or memorialize communication or contact between the U.S. Environmental Protection Agency and the German government (including but not limited to its representatives and its staff), related to Volkswagen's cheating on emissions testing, including consideration of any civil or criminal prosecution against Volkswagen. The Volkswagen emissions cheating scandal to which this request relates is summarized in a January 5, 2016, article in the New York Times, "How Volkswagen Got Away With Diesel Deception," by Karl Russell, *et al.*, and available at <http://nyti.ms/1jQyOC6>.

For purposes of this request, the term "Volkswagen" should be construed to also include any of the following: Volkswagen AG, VW, Audi AG, Volkswagen Group of America, Inc., Volkswagen Group of America Chattanooga Operations, LLC, Dr. Ing. H.c.F. Porsche AG, Porsche, and Porsche Cars North America, Inc.

The definition of "records" should be construed to include, but not be limited to, memoranda, e-mails, facsimiles, and text messages on government-provided cell phones and Blackberries.

If it is your position that responsive records exist but that those records (or portions of those records) are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the nonexempt portions of the records. Public Citizen seeks each record *in its entirety*. Accordingly, please do not redact portions of any record as "non-responsive," "out of scope," or the like.

I request that any records produced in response to this request be provided in electronic form wherever possible.

Public Citizen requests that all fees in connection with this FOIA request be waived in accordance with 5 U.S.C. § 552(a)(4)(A)(iii) because Public Citizen does not seek the records for a commercial purpose and disclosure "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government." The subject of the request concerns the operations or activities of the government because the request seeks information on the extent to which the German government corresponded with the U.S. government about Volkswagen's cheating on emissions tests, as well as what those communications said. In September 2015, the Environmental Protection Agency alleged that Volkswagen had installed software in nearly 500,000 cars in the U.S. that allowed the cars to cheat on emissions tests.<sup>1</sup> The scandal rapidly expanded, with VW admitting that approximately 11 million cars worldwide contain the "defeat device."<sup>2</sup> Furthermore, news articles have pointed out the important role of the automobile industry in Germany, "where every seventh job is linked to the auto industry."<sup>3</sup> Other news articles have pointed out the industry's close ties to the German government, explaining that the German government "painstakingly developed a damage control strategy in an effort to prevent the VW scandal from damaging the reputation of German industry as a whole," including sending out a "confidential letter to German diplomats around the world, providing guidelines for how they should go about defending 'the Germany brand.'"<sup>4</sup> Disclosure of the information requested is likely to reveal how much the German government has been involved in the U.S. government's response to the Volkswagen scandal.

Moreover, the requested records will contribute to a meaningful understanding of the operations or activities of the EPA. The requested information is not in the public domain. We expect the requested records to reveal the extent to which the German government consulted with, or contacted, the EPA about what legal action or response to take against Volkswagen. Disclosure of this information will shed light on how the U.S. government's response to deception by a foreign car manufacturer was influenced by the German government, if at all.

The disclosure will inform the general public because Public Citizen has the capacity and intention to disseminate the information it obtains from the request to a wide audience. Public Citizen, which has over 400,000 members and supporters, is a nonprofit research, litigation, and advocacy organization that represents the public interest before Congress, the executive branch, and the courts. It fights for openness and democratic accountability in government; for social and economic justice in globalization and trade policies; for clean, safe and sustainable energy; for strong health, safety and environmental protections; for safe, effective and affordable medicines and health care; and for the right of consumers to seek redress in the courts. Public Citizen does not have a commercial interest in the requested records; it intends to share information received

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<sup>1</sup> Amy Harder & Mike Spector, *EPA Accuses Volkswagen of Dodging Emissions Rules*, Wall St. J., Sept. 22, 2015, available at <http://on.wsj.com/1inpp3V>.

<sup>2</sup> Russell Hotten, *Volkswagen: The scandal explained*, BBC News, Dec. 10, 2015, <http://www.bbc.com/news/business-34324772>.

<sup>3</sup> William Boston and Sarah Sloat, *Volkswagen Emissions Scandal Relates to 11 Million Cars*, Wall St. J., Sept. 22, 2015, available at <http://on.wsj.com/1n5Y7Sx>.

<sup>4</sup> Hubert Gude et al., *Berlin Accomplices: The German Government's Role in the VW Scandal*, Nov. 6, 2015, Spiegel Online International, <http://spon.de/aeCkZ>.



from this request with the public free of charge. It regularly publishes reports based upon information acquired through FOIA.

Public Citizen has a demonstrated capacity to disseminate this information. Public Citizen has several full-time staff dedicated to distributing its publications through its website,<sup>5</sup> newsletters,<sup>6</sup> Twitter,<sup>7</sup> Facebook,<sup>8</sup> email listserv,<sup>9</sup> and press releases. Many of Public Citizen's reports, petitions, or other research products grab headlines in major newspapers, broadcast media, social media, and academic journals.<sup>10</sup> Public Citizen maintains four blogs,<sup>11</sup> publishes a bi-monthly newspaper,<sup>12</sup> and issues frequent press releases.<sup>13</sup> Nearly every day, print and broadcast media around the world mention Public Citizen or quote its experts.<sup>14</sup> Public Citizen

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<sup>5</sup> Public Citizen's homepage, <http://www.citizen.org>. For examples of publications distributed through the website, see Reports and Memos on the Trans-Pacific Partnership, <http://www.citizen.org/TPP#reports>; and a 2015 report entitled "Nursing: A Profession in Peril," <http://www.citizen.org/health-care-worker-safety-report-series> (a five-part series on health care workers injured on the job).

<sup>6</sup> See, e.g., Public Citizen Health Letter, <http://www.citizen.org/healthletter>.

<sup>7</sup> Public Citizen's Twitter page, [https://twitter.com/Public\\_Citizen](https://twitter.com/Public_Citizen).

<sup>8</sup> Public Citizen's Facebook page, <https://www.facebook.com/publiccitizen>.

<sup>9</sup> Sign up for Public Citizen Email Alerts: <https://secure.citizen.org/t/10694/signUp.jsp?key=5059>.

<sup>10</sup> See, e.g., 2007 report: "The Arbitration Trap: How Credit Card Companies Ensnare Consumers" discussed in: Stephanie Mencimer, *Suckers Wanted: How Car Dealers and Other Businesses are Taking Away Your Right to Sue*, Mother Jones, Nov. 26, 2007, <http://www.motherjones.com/politics/2007/11/suckers-wanted-how-car-dealers-and-other-businesses-are-taking-away-your-right-sue>, and *Consumer group: Credit card arbitrations rigged*, N.Y. Daily News, Sept. 28, 2007, <http://www.nydailynews.com/news/money/consumer-group-credit-card-arbitrations-rigged-article-1.247578>; 2010 report: "Lies, Damn Lies and Export Statistics How Corporate Lobbyists Distort Record of Flawed Trade Deals" discussed in: Sewell Chan, *In the Form of a Study, a Salvo From the Left Questions Obama's Trade Goals*, N.Y. Times, Sept. 14, 2010, <http://www.nytimes.com/2010/09/15/business/economy/15trade.html>; 2014 Report: "Mission Creep-y: Google Is Quietly Becoming One of the Nation's Most Powerful Political Forces While Expanding Its Information-Collection Empire" discussed in: Alistair Barr, *Consumer Group Questions Google's Breadth, Influence*, Wall St. J. Blog, Nov. 13, 2014, <http://on.wsj.com/1BgWmGZ>; 2015 Report: "Slighted: Accounting Tricks Create False Impression That Small Businesses Are Getting Their Share of Federal Procurement Money, and the Political Factors That Might Be at Play", discussed in: *Public Citizen report: Small businesses 'slighted'*, The Hill: Congress Blog, May 27, 2015, <http://thehill.com/blogs/congress-blog/economy-budget/243107-public-citizen-report-small-businesses-slighted>.

<sup>11</sup> Citizen Vox, <http://www.citizenvox.org>; Consumer Law & Policy Blog, <http://pubcit.typepad.com/>; Eyes on Trade, <http://citizen.typepad.com/eyesontrade/>; and Texas Vox, <http://www.texasvox.org/>.

<sup>12</sup> Public Citizen's News, [http://www.citizen.org/pc\\_news\\_issues/2015/](http://www.citizen.org/pc_news_issues/2015/).

<sup>13</sup> Press releases, <http://www.citizen.org/Page.aspx?pid=2181>.

<sup>14</sup> An archive of many of these news stories is available on its website: Public Citizen Media Hits, <http://www.citizen.org/Page.aspx?pid=4987>.

also makes its experts available to speak to the media, at conferences, and to testify before Congress.<sup>15</sup> Public Citizen plans to disseminate the requested information and analysis of the information through its website, blog posts, press releases, and reports, as appropriate.

Disclosure of the requested information will significantly increase the public's understanding of whether and to what extent the EPA consulted with the German government regarding the Volkswagen emissions scandal. There is widespread interest in the scandal and in the U.S. government's response to the scandal, but the public has no information on what kind of input came from the German government, if any.

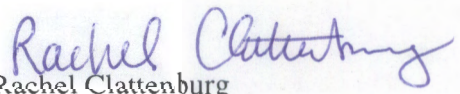
Finally, Public Citizen intends to share the information received from this request with the public free of charge and has no commercial interest in the disclosure of the information.

Accordingly, I request that you waive all fees for locating and duplicating the requested records because Public Citizen is entitled to a public interest fee waiver. If, however, a waiver is not granted, please advise me of the amount of any proposed search, review, and reproduction charges before you conduct those activities.

I expect a response within 20 working days as provided by law. If you have any questions regarding this request, please contact me by phone at (202) 588-1000 or by e-mail at [rclattenburg@citizen.org](mailto:rclattenburg@citizen.org).

Thank you very much for your attention to this matter.

Sincerely,

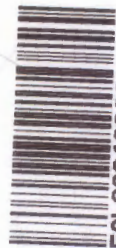
  
Rachel Clattenburg  
Public Citizen, Inc.

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<sup>15</sup> Public Citizen's Experts, <http://www.citizen.org/Page.aspx?pid=2499>.

**PUBLIC CITIZEN LITIGATION GROUP**

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